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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130408348-3835-02]

RIN 0648-XC903

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-Annual Catch Limit (ACL) Harvested for Management Area 1A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the directed herring fishery in management area 1A, because it projects that 92 percent of the catch limit for that area will have been caught by the effective date. Effective 0001 hr, October 15, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of Atlantic herring (herring) per trip or calendar day in or from Management Area 1A until June 1, 2014, when the 2014 allocation for Area 1A becomes available. Vessels that have entered port before 0001 hr on October 15, 2013, may possess, offload, and sell more than 2,000 lb of herring from Area 1A, from that trip, after the closure. Also effective 0001 hr, October 15, 2013, federally permitted dealers may not receive more than 2,000 lb (907.2 kg) of herring caught within Management Area 1A per trip or calendar day, unless it is from a trip landed by a vessel that entered port before 0001 hr on

October 15, 2013.

DATES: This rule is effective 0001 hr local time, October 15, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher Biegel, Fishery Management Specialist, (978) 281-9112.

SUPPLEMENTARY INFORMATION: The reader can find regulations governing the herring fishery at 50 CFR part 648. The regulations require annual specification of the overfishing limit, acceptable biological catch, annual catch limit (ACL), optimum yield, domestic harvest and processing, U.S. at-sea processing, border transfer, and sub-ACLs for each management area. The 2013 Domestic Annual Harvest is 107,800 metric tons (mt); the 2013 sub-ACL allocated to Area 1A is 29,775 mt, and 0 mt of the sub-ACL is set aside for research (78 FR 61828, October 4, 2013). For management Area 1A, the catch of sub-ACL is currently allocated over two seasons, the first from January 1 through May 31, and the second from June 1 through December 31. Because of this season, the herring fishery in Area 1A would re-open after the closure on June 1, 2014.

The regulations at § 648.201 require that when the Administrator, Northeast Region, NMFS (Regional Administrator) projects herring catch will reach 92 percent of the sub-ACL allocated in any of the four management areas designated in the Atlantic Herring Fishery Management Plan (FMP), NMFS will prohibit herring vessel permit holders from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from the specified management area for the remainder of the closure period. The Regional Administrator monitors the herring fishery catch in each of the management areas based upon dealer reports, state data, and other available information. NMFS publishes

notification in the Federal Register of the date that the catch is projected to reach 92 percent of the management area sub-ACL and closure of the management area for the remainder of the closure period. Vessels that have entered port before the closure date may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 1A, from that trip. During the closure, vessels may transit Area 1A with more than 2,000 lb (907.2 kg) of herring on board only under the conditions specified below.

The Regional Administrator has determined, based on dealer reports and other available information, that the herring fleet will have caught 92 percent of the total herring sub-ACL allocated to Area 1 for the season (June 1 through December 31) by the effective date. Therefore, effective 0001 hr local time, October 15, 2013, federally permitted vessels may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from Area 1A through December 31, 2013, except that vessels that have entered port before 0001 hr on October 15, 2013, may offload and sell more than 2,000 lb (907.2 kg) of herring from Area 1A, from that trip after the closure. During the closure, a vessel may transit through Area 1A with more than 2,000 lb (907.2 kg) of herring on board, provided the vessel did not catch the herring in Area 1A and stows all fishing gear aboard, making it unavailable for immediate use as required by § 648.23(b). Effective 0001 hr, October 15, 2013, NMFS also advises federally permitted dealers that they may not receive herring from federally permitted herring vessels that harvest more than 2,000 lb (907.2 kg) of herring from Area 1A through 2400 hr local time, December 31, 2013, unless it is from a trip landed by a vessel that entered port before 0001 hr on October 15, 2013.

#### Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive

Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. This action closes the herring fishery for Management Area 1A until January 1, 2014, under current regulations. The regulations at § 648.201(a) require such action to ensure that herring vessels do not exceed the 2013 sub-ACL allocated to Area 1A. The herring fishery opened for the 2013 fishing year on January 1, 2013. Data indicating the herring fleet will have landed at least 92 percent of the 2013 sub-ACL allocated to Area 1A have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the sub-ACL for Area 1A for this fishing year may be exceeded, thereby undermining the conservation objectives of the FMP. If sub-ACLs are exceeded, the excess must also be deducted from a future sub-ACL and would reduce future fishing opportunities. NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 11, 2013.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

performing the functions and duties of the Assistant Administrator for Fisheries,

National Marine Fisheries Service.

